

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

TLORIA MCDAVID, *as Mother, Heir,
and Anticipated as administrator of the
estate of Shavon McDavid,*

Plaintiff,

v.

SELAM EXPRESS, INC.,

Defendant.

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1:22-CV-01972-ELR

ORDER

In an Order dated July 20, 2022, the Court directed Plaintiff Tloria McDavid, who is proceeding *pro se*, to show cause in writing why her case should not be dismissed for failure to comply with the Court's June 22, 2022 Order directing her to submit a separate Preliminary Report and Discovery Plan statement within twenty-one (21) days [Doc. 14]. [See Doc. 16 at 2]. On August 4, 2022, Plaintiff filed a letter notifying the Court of her desire to withdraw her claim against Defendant Salem Express Inc. without prejudice and that she would therefore not be presenting a Preliminary Report and Discovery Plan statement as directed by the Court. [See Doc. 17].

Upon review, the Court construes Plaintiff's letter as request to voluntarily dismiss her claims against Defendant pursuant to Federal Rule of Civil Procedure 41(a)(2). Rule 41(a)(2) provides that "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." See FED. R. CIV. P. 41(a)(2). A district court enjoys broad discretion in determining whether to allow a Rule 41(a)(2) voluntary dismissal. Pontenberg v. Bos. Sci. Corp., 252 F.3d 1253, 1255 (11th Cir. 2001). In fact, dismissals should be granted in most cases "unless the defendant will suffer clear legal prejudice." Id. (quoting McCants v. Ford Motor Co., Inc., 781 F.2d 855, 857 (11th Cir. 1986)).

Here, the Court finds that a Rule 41(a)(2) dismissal is appropriate. There is no evidence that Defendant will suffer legal prejudice from the dismissal. Accordingly, the Court **DISMISSES WITHOUT PREJUDICE** Plaintiff's action pursuant to Federal Rule of Civil Procedure 41(a)(2). The Court **DIRECTS** the Clerk to close this case.

SO ORDERED, this 8th day of August, 2022.



Eleanor L. Ross
United States District Judge
Northern District of Georgia